

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JENNIFER FABIAN
Plaintiff,

:

v.

:

Civil Action
No. 16-4741

ST. MARY'S MEDICAL CENTER
Defendant.

:

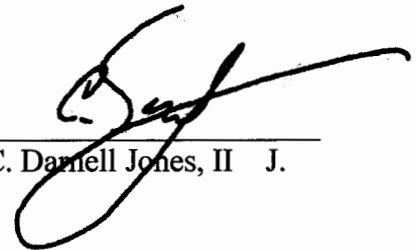
ORDER

AND NOW, this 11th day of August, 2017, upon consideration of Defendant's Partial Motion to Dismiss (ECF No. 13), Plaintiff's Opposition thereto (ECF No. 14), and Defendant's Reply (ECF No. 15), it is hereby ORDERED that said Motion is GRANTED in PART and DENIED in PART as follows:

- (1) Count I of Plaintiff's Second Amended Complaint is DISMISSED with leave to amend;
- (2) Defendant's motion to dismiss Plaintiff's retaliation claim under the FMLA in Count II of the Second Amended Complaint is DENIED;
- (3) Defendant's motion to dismiss Plaintiff's pattern or practice claim in Count II of the Second Amended Complaint is GRANTED and Plaintiff is permitted leave to amend said claim;
- (4) Plaintiff's demand for compensatory damages (other than those for past earning losses) and for punitive damages with respect to the ADA retaliation claim in Count I of the Second Amended Complaint are STRICKEN;
- (5) Plaintiff's demand for emotional distress and punitive damages under the FMLA in Count II of the Second Amended Complaint are STRICKEN;
- (6) All of Plaintiff's demands for physical pain and suffering damages under the ADA and FMLA are STRICKEN; and,

- (7) **On or before September 11, 2017**, Plaintiff shall file her amended pleading in accordance with this Order and the accompanying Memorandum.

BY THE COURT:



C. Danell Jones, II J.